IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.W.P.No.5903 of 2005
Date of Decision : April 03, 2007.

Rajinder Singh .... Petitioner

Vs.

State of Punjab and another .... Respondents

CORAM : HON'BLE MR.JUSTICE J.S.KHEHAR.
HON'BLE MR.JUSTICE L.N.MITTAL.

* * *

Present : None for the petitioner.

Mr.Gurminder Singh, Addl.A.G., Punjab.

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J.S.KHEHAR, J. (Oral) :

The petitioner's brother Jaspal Singh, who was holding the post of Panchayat Secretary, died on 03.10.1997. On account of the death of his brother, the petitioner applied for appointment on compassionate grounds. The petitioner's request was acceded to and he was appointed as Panchayat Secretary in place of his brother by an order dated 28.10.1998 (Annexure P-1). Learned counsel for the petitioner states that the petitioner completed his period of probation and was confirmed against the post of Panchayat Secretary with effect from 11.10.2000.

The grievance of the petitioner is against the order dated 05.04.2005 (Annexure P-4) by which his services were terminated. It is this order which is the subject matter of challenge at the hands of the petitioner through the instant petition. The solitary reason depicted in the impugned order under reference reveals, that the petitioner's brother Jaspal Singh, was

not a regular employee but was working on 89 days' basis, and as such, the petitioner could not have been appointed on compassionate grounds on account of the death of his brother Jaspal Singh. This plea of the respondents is based on policy instructions dated 21.11.2002. A copy of the aforesaid policy instructions has been appended to the written statement, jointly filed on behalf of respondents no.1 and 2, as Annexure R-1. A perusal of para 18 of the aforesaid policy instructions reveals that the same would come into force with immediate effect. On the basis of depiction in para 18 of the policy instructions dated 21.11.2002, it is the contention of the learned counsel for the petitioner that the same could not be retrospectively made applicable to the petitioner so as to render him ineligible for appointment on compassionate grounds.

Having examined the matter in its totality, we are satisfied that the claim of the petitioner is fully justified. The petitioner came to be appointed as Panchayat Secretary on 28.10.1998, on compassionate grounds, consequent upon the death of his brother in harness on 03.07.1997. Subsequently, on having completed his period of probation satisfactorily, he was confirmed with effect from 11.10.2000. The instructions dated 21.11.2002, which came into existence well after the confirmation of the petitioner, could not be made applicable retrospectively to render the petitioner ineligible for appointment made as far back as on 28.10.1998.

In view of the above, we are satisfied that the impugned order dated 5.4.2005 (Annexure P-4) deserves to be set aside. Ordered accordingly.

(J.S.KHEHAR)
JUDGE

April 03, 2007
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(L.N.MITTAL)
JUDGE